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Human rights situations that require the Council's attention

Joint written statement* submitted by the International Humanist and Ethical Union, European Humanist Federation, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Please recycle

Sexual violence against minors: The Holy See's failure to protect the rights of the child

Rape, sexual and other violence perpetrated against minors (abbreviated below to "Child Abuse") by clerics of the Holy See

The recent conclusions of the Committee on the Rights of the Child (CRC) in respect of the Holy See (HS)[1] and the its failure to accept such conclusions are so serious that we would like to bring them to the attention of the Human Rights Council (HRC) in respect of the rights of the child.

Contraventions

Our written statements A/HRC/12/NGO/25 and A/HRC/16/NGO/92 drew the Council's attention to the HS's wholesale contravention of the Convention.

We reported the expert opinion of Geoffrey Robertson QC (UN Internal Justice Council, 2008-12), that the HS had breached Articles 3, 6, 19, 34, 39 and 44 of the CRC (reporting).

As detailed below, the Committee posed (unanswered) questions at the Public Examination to the HS about its conformity with ten Articles of the Convention.

Scale

The HS has informed the Council that "1.5% - 5% of the catholic clergy have been involved in sexual abuse cases."[2] Abuse also included serious physical and psychological abuse and mental cruelty. Abusers typically had multiple victims each of whom was abused several times.

A small proportion of victims complained, some of whom were silenced by the Church or their lawyers. Nevertheless, there were thousands of media reports of Catholic Church-related abuse in the 1980s and even in recent years well over 10,000 reports, especially relating to Ireland and the USA – where billions of dollars have been paid in compensation, very little of which has been offered voluntarily.[3]

The Committee referred to "tens of thousands of children worldwide."[4] Yet the HS's first reference was in 2011 in its second periodic report (due fourteen years earlier in 1997)[5] and only detailed in one paragraph: "The universal law of the Church has always viewed sexual abuse of a minor by a cleric/religious as one of the most serious offenses that sacred ministers can commit. Accordingly, canon law has provided the most severe penalties, not excluding dismissal from the clerical state."[6]

The HS's evasion of implementing the CRC worldwide

In its Concluding Observations, the Committee noted that, " […] subordinates in Catholic religious orders are bound by obedience to the Pope, in accordance with Canons 331 and 590 of the Code of Canon Law. The Committee reminds the

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[1] See CRC/C/VAT/Q/2 and CRC/C/VAT/CO/2; and more information at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=VAT&Lang=EN

[2] http://www.secularism.org.uk/uploads/criticism-of-the-holy-see-over-child-abuse.pdf , p10. Incidentally, this equates over 500,000 male clergy and religious. Also see, http://cara.georgetown.edu/staff/webpages/Global%20Catholicism%20Release.pdf

[3] http://www.nytimes.com/2014/05/07/world/europe/vatican-tells-of-848-priests-ousted-in-last-decade.html, see also footnote 19

[4] CRC/C/VAT/CO/2, §43

[5] CRC/C/VAT/2

[6] CRC/C/VAT/2 §98

HS that in ratifying the Convention, it made a commitment to implement it not only within the territory of Vatican City State (VCS), but importantly, also as the supreme power of the Catholic Church, worldwide through individuals and institutions under its authority."[7] This accords with Geoffrey Robertson's submission to the Committee in March 2013, which sets out in detail the reasons why the treaty obligation is not confined to VCS[8].

The first 15 paragraphs of the "Comments of the Holy See on the Concluding Observations of the Committee on the Rights of the Child,"[9] published September 2014 under Article 45(d), refute that its Convention obligations extend beyond VCS.

Paragraph 3 states that: "The HS disseminates principles recognized in the CRC to [...] various local Catholic churches and institutions ... [but] the HS does not have the capacity or legal obligation to impose the abovementioned principles upon the local Catholic churches and institutions present on the territory of other States and whose activities abide with national laws."

The HS described itself in the second sentence of its Initial Report[10] however as "the highest organ of government of the Catholic Church,"[11] which could not give greater "legal obligation" or "capacity". It exercises such capacity forcefully when in its own interests through its decree *Crimen sollicitationis*.[12] Geoffrey Robertson observes that, "The new Canon Law norms introduced in July 2010[13] make it clearer than ever that the Vatican directs and controls the whole process."[14] The norms include: all the acts of the case are to be transmitted *ex officio* as soon as possible to the Congregation for the Doctrine of the Faith" (CDF); "Cases of this kind are subject to the pontifical secret;" and that, "In tribunals [...] the functions of judge, promoter of justice, notary and legal representative can validly be performed for these cases only by priests."[15]

We reject the HS's baseless counterargument that instructing the Church worldwide to follow the Convention would "constitute a violation of the principle of non-interference in the internal affairs of States."[16] Even if the HS could not control the Church, which we do not accept, it would still be obliged to "take all appropriate national, bilateral and multilateral measures" under Article 34, which it refuses to do.

The Committee's major concerns include -

Sexual exploitation and abuse:[17]

"[...] The Committee nevertheless expresses deep concern about child sexual abuse committed by members of the Catholic Church operating under the authority of the HS, whereby clerics have been involved in the sexual abuse of tens of thousands of children worldwide. The Committee is gravely concerned that the HS has not acknowledged the extent of the crimes committed, nor taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have enabled the continuation of sexual abuse by clerics and impunity for the perpetrators. The Committee is particularly concerned that:

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[7] CRC/C/OPSC/VAT/CO/1

[8] http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC-OP-SC%2fNGO%2fVAT%2f21398&Lang=en

[9] http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fCOB%2fVAT%2f18491&Lang=en (September 2014)

[10] CRC/C/3/Add.27

[11] CRC/C/3/Add.27, p3

[12] http://www.awrsipe.com/Doyle/2008/2008-10-03-Commentary%20on%201922%20and%201962%20documents.pdf

[13] http://www.bishop-accountability.org/resources/resource-files/churchdocs/EpistulaEnglish.htm

[14] http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC-OP-SC%2fNGO%2fVAT%2f21398&Lang=en

[15] Ibid.

[16] http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCRC%2fCOB%2fVAT%2f18491&Lang=en, §3

[17] CRC/C/VAT/CO/2, §43

(a) Well-known child sexual abusers have been transferred from parish to parish or to other countries in an attempt by the Church to cover-up such crimes. [and] has allowed many priests to remain in contact with children and to continue to abuse them [..];

(b) Although the HS placed [...] [abuse cases] under the exclusive competence of the CDF in 2001, it has declined to provide the Committee with data on all [any?] cases of child sexual abuse brought to its attention [...];

(c) [...] child sexual abuse has been [...] treated [by the HS] through confidential proceedings [that] have allowed the vast majority of abusers and almost all those who have concealed child sexual abuse to escape judicial proceedings [...];

(d) Due to a code of silence imposed [...] child sexual abuse have hardly ever been reported to the law enforcement authorities [but] cases of nuns and priests who were ostracized, demoted and defrocked for not respecting the obligation of silence have been reported [...], as well as cases of priests who were congratulated for refusing to denounce Child Abusers [...];

(e) Reporting to national law enforcement authorities has never been made compulsory and was explicitly rejected in an official letter [...] Church authorities, including at the highest levels of the HS, have shown reluctance and [...] refused to cooperate with judicial authorities and national commissions of inquiry.

Compensation[18]:

- The need to pay compensation, without conditions
- In respect of Magdalene Laundries, where torture is alleged, the need to bring perpetrators to justice and pay compensation.

As noted by the *Guardian* newspaper, The Church "ruthlessly protected its assets from victims seeking redress. Its staggeringly vast wealth has been placed out of reach of civil law suits on behalf of victims." [19]

Public examination

According to the transcript of the public examination of the HS (16 January 2014)[20], repeated attempts to secure disclosure of information on perpetrators held by the Church in VCS and member states were rebuffed. The Committee's questions about the HS's conformity with Articles 2 - 4, 10, 13 - 16, 34 and 39 and the matters raised above, elicited only evasive responses which failed to satisfy the Committee, as is evident from its concluding observations.[21] Their publication resulted in unprecedented worldwide criticism of the Church's role over clerical Child Abuse in printed and electronic media.[22]

Further concerns

The HS's UN Permanent Observer, Archbishop Tomasi, concluded an interview on Vatican Radio on the observations: "I don't think that there will be fundamental changes in this task ahead."

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[18] CRC/C/VAT/CO/2, §61 & §38

[19] The *Guardian's* comment concerned the Commission in Australia, but is relevant worldwide. See http://www.theguardian.com/commentisfree/2015/jul/07/the-catholic-church-neednt-wait-for-a-national-redress-scheme-it-can-act-morally-now

[20] Compiled independently from the publicly available video. See https://www.crin.org/en/library/publications/holy-see-crc-session-transcript

[21] CRC/C/VAT/CO/2

[22] http://iheu.org/newsite/wp-content/uploads/2015/08/Worldwide-coverage-of-the-Church1.doc

The Vatican has set up a lay Commission on Child Abuse to advise it, while almost entirely ignoring the concluding recommendations of the Committee, and a tribunal under the CDF to judge bishops which risks providing an alternative to criminal proceedings.

Lawyers representing victims of Child Abuse tell us that, all over the world, the Church continues fiercely to obstruct disclosure and compensation.

Recommendations

In the interests of protecting vulnerable children and of justice, we call on the Council to forcefully urge the HS to:

- accept its Convention obligation to do everything in its power to enforce the Convention worldwide;
- make all information on Child Abuse, including suspected perpetrators and facilitators, held by the Church worldwide (including under the auspices of the VCS) available to relevant law enforcement authorities;
- instruct the Church worldwide to report suspected perpetrators and facilitators to national law enforcement authorities even when not required to do so by local law;
- instruct the Church worldwide, and its lawyers and insurers, to fairly and expeditiously settle claims and cases against the Church, including for compensation.